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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LINDA MURPHY,

Plaintiff,

vs.

LIFE INSURANCE COMPANY OF NORTH
AMERICA, DOES I-X, ROE
CORPORATIONS I-X, inclusive,
Defendant.

Case No. 2:13-cv-02295-APG-CWH

**PARTIES STIPULATED DISCOVERY
PLAN AND SCHEDULING ORDER WITH
PARTICULAR REPRESENTATIONS
AND MODIFICATIONS**

***SPECIAL SCHEDULING REVIEW
REQUESTED***

Counsel for all parties participated in a conference on March 26, 2014, for purposes of Fed. R. Civ. P. 26(f) and LR 16-1 and 26-1. This conference was attended by Jared B. Anderson, counsel for Plaintiff Linda Murphy ("Murphy"), and Von S. Heinz, counsel for Defendant Life Insurance Company of North America ("LINA").

At this conference, counsel discussed the disclosure obligations of Fed. R. Civ. P. 26(a)(1) and the remaining issues contemplated by Fed. R. Civ. P. 26(f) and LR 16-1 and 26-1. Because the insurance at issue in this is governed by a fully-qualified ERISA plan, Fed. R. Civ. P. 26(a)(1)(B)(i) exempts this case from initial disclosure requirements since it is an action for review on an administrative record.

However, as stated below, LINA agrees to provide documents to Murphy and Murphy has agreed to provide documents to LINA which would otherwise be discoverable under Rule 26(a)(1), constituting the administrative record for this matter on or before April 11, 2014 and

1 April 25, 2014, respectively.

2 **A. DOCUMENT DISCLOSURES RE THE ADMINISTRATIVE RECORD**

3 1. LINA agrees to provide to Murphy the documents which comprise the
4 administrative record for the claim for life insurance benefits submitted by Murphy and which
5 would otherwise be discoverable under Rule 26(a), on or before April 4, 2014.

6 2. Murphy agrees to provide to LINA on or before April 18, 2014, those documents
7 which would otherwise be discoverable under Rule 26(a)(1) and which Murphy believes should be
8 included in the administrative record.

9 3. Murphy and LINA will confer after April 18, 2014 to determine the agreed-upon
10 contents of the administrative record and, thereafter, on or before April 25, 2014, LINA will
11 manually file the administrative record with the Court, pursuant to the Court's Special Order
12 109(III)(G)(5), to be redacted for the sole purpose of removing reference to personal identification
13 number and date of birth.

14 **B. DISCOVERY PLAN AND SCHEDULING**

15 Because ERISA governs this matter, Rule 26(a)(1)(B)(i) governs and the case is exempt
16 from the initial disclosure obligations of Rule 26(a)(1)(a). This case is also to be presented for a
17 summary bench trial. *See Mongeluzo v. Baxter Travenol Long Term Disability Benefit Plan*, 46
18 F.3d 938 (9th Cir. 1995); *Kearney v. Standard Ins. Co.*, 175 F.3d 1084, 1090 (9th Cir. 1999) (en
19 banc), *cert. denied*, 528 U.S. 963 (1999); *Nolan v. Heald College*, 551 F.3d 1148 (9th Cir. 2009).

20 The plaintiff wishes to perform some limited discovery. This discovery consists of written
21 discovery requests and depositions regarding the relationship between the insurer and the plan
22 administrator in order to determine how closely their interests are aligned. The plaintiff also
23 wishes to conduct discovery through written discovery requests and depositions regarding the
24 relationship between the agent who presented the plan to Mr. Kenneth Murphy and accepted his
25 application to sign up for the plan. LINA submits that discovery is inappropriate in an ERISA
26 case, and reserves the right to object to any discovery Plaintiff seeks, as well as object that she is
27 entitled to conduct discovery at all
28

C. DEADLINE TO AMEND THE PLEADINGS AND ADD PARTIES

The parties agree that any request to amend the pleadings must be made within 90 days of the date of the Court's approval of this submission.

D. INTERIM STATUS REPORT

The parties shall file an interim status report, required by LR 26-3, by Friday, May 9, 2014.

E. SETTLEMENT

Although the likelihood of settlement cannot be presently established, the parties have already discussed case resolution and the possibility of alternative dispute resolution.

F. PRETRIAL ORDER

A pretrial order is not necessary for this case, since it is to be tried in accordance with the specialized form of bench trial directed by *Kearney* and *Nolan, supra*, and for the Court's findings of fact and conclusions of law, pursuant to Fed. R. Civ. P. 52. The parties will submit a proposed trial briefing order, with proposed dates for opening, answering and reply trial briefs, no later than Friday, April 25, 2014.

Dated: March 28, 2014

STOVALL & ASSOCIATES

By: /s/ Jared B. Anderson

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Dated: March 28, 2014

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By: /s/ Von S. Heinz

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IT IS SO ORDERED:


UNITED STATES MAGISTRATE JUDGE

Dated: March 31, 2014